



General Assembly

Substitute Bill No. 468

February Session, 2016

* SB00468JUD 032916 *

AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46a-84 of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2016*):

4 (b) [Upon] Except as provided in this section, upon (1) certification
5 of a complaint filed pursuant to subsection (a) or (b) of section 46a-82,
6 (2) the filing of a complaint pursuant to subsection (c) of said section,
7 or (3) a decision to hear a complaint, which is made pursuant to
8 subsection (e) of section 46a-83, the Chief Human Rights Referee shall
9 appoint a human rights referee to act as a presiding officer to hear the
10 complaint. The chief referee shall also appoint an individual
11 authorized by subsection (e) of this section or a referee, other than the
12 referee appointed to hear the complaint, to conduct settlement
13 negotiations. The chief referee shall serve in the name of the
14 commission a copy of the complaint, as the same may have been
15 amended, requiring the respondent to answer the charges of the
16 complaint, together with a written notice requiring the respondent to
17 appear at a hearing or settlement conference at a date and time
18 specified in the notice. A hearing on a complaint filed pursuant to
19 subsection (a) or (b) of section 46a-82 shall be commenced by

20 convening a hearing conference not later than forty-five days after (A)
21 the certification of the complaint, or (B) the decision made pursuant to
22 subsection (e) of section 46a-83 to hear the complaint, as applicable.
23 Such hearing shall be a de novo hearing on the merits of the complaint
24 and not an appeal of the commission's (i) processing of the complaint
25 prior to its certification, or (ii) decision made pursuant to subsection (e)
26 of section 46a-83 to hear the complaint. A hearing on a complaint filed
27 pursuant to subsection (c) of section 46a-82 shall be commenced by
28 convening a hearing conference not later than twenty days after the
29 date of notice of such complaint. [Hearings shall proceed with
30 reasonable dispatch and be concluded in accordance with the
31 provisions of section 4-180.]

32 Sec. 2. Section 46a-84 of the 2016 supplement to the general statutes
33 is amended by adding subsections (h), (i) and (j) as follows (*Effective*
34 *October 1, 2016*):

35 (NEW) (h) Each party shall be afforded the opportunity to inspect
36 and copy relevant and material records, papers and documents not in
37 the possession of the party, except as otherwise provided by applicable
38 state or federal law. The presiding officer may order a party to produce
39 such records, papers and documents, and if a party fails to comply
40 with such order within thirty days of such order, the presiding officer
41 may issue a nonmonetary order deemed just and appropriate,
42 including, but not limited to, an order (1) finding that the matters that
43 are the subject of the order are established in accordance with the claim
44 of the party requesting such order, (2) prohibiting the party who has
45 failed to comply with such order from introducing designated matters
46 into evidence, (3) limiting the participation of the noncomplying party
47 with regard to issues or facts relating to the order, or (4) drawing an
48 adverse inference against the noncomplying party.

49 (NEW) (i) Hearings shall proceed with all reasonable speed and be
50 concluded in accordance with the provisions of this subsection and
51 section 4-180. The presiding officer shall issue a final decision not later
52 than eighteen months after the date (1) the complaint is certified

53 pursuant to subsection (a) of this section, or (2) the decision is made
54 pursuant to subsection (e) of section 46a-83 to hear the complaint, as
55 applicable. The commission, the complainant or the respondent may
56 apply to the superior court for the judicial district of Hartford for an
57 order requiring the presiding officer to comply with the provisions of
58 this subsection and section 4-180. The court, after hearing, shall issue
59 an appropriate order. Not later than January 1, 2017, and annually
60 thereafter, the Chief Human Rights Referee shall submit a report, in
61 accordance with the provisions of section 11-4a, to the joint standing
62 committee of the General Assembly having cognizance of matters
63 relating to the judiciary on: (A) The number of final decisions in the
64 previous fiscal year that exceeded the time frame and the reasons for
65 the failure to comply; and (B) the number of complaints pending final
66 decision in the previous fiscal year that have exceeded the time frame
67 and the reasons for the failure to comply.

68 (NEW) (j) The Chief Court Administrator shall designate judge trial
69 referees who shall be available to the Commission on Human Rights
70 and Opportunities to act as presiding officers at any hearing or
71 proceeding of the commission conducted pursuant to this section,
72 subsection (l) of section 46a-83 or subsection (c) or (d) of section 46a-56.
73 Any judge trial referee so designated and presiding shall have the
74 same powers and duties as a human rights referee appointed pursuant
75 to section 46a-57. Any judge trial referee so designated and presiding
76 shall be compensated in accordance with the provisions of section 52-
77 434 from such funds as may be available to the commission. A judge
78 trial referee may also hear complaints filed under subsection (e) of
79 section 4-61dd. Whenever the total number of complaints at public
80 hearings that have not been resolved by final decision pursuant to
81 section 46a-86 exceeds one hundred, or subsection (e) of section 4-61dd
82 exceeds one hundred, the executive director of the commission, within
83 available appropriations, may appoint a judge trial referee designated
84 by the Chief Court Administrator to preside at a settlement conference
85 or to hear and issue a final decision on a complaint. The executive
86 director shall make the appointment of a judge trial referee not later

87 than fifteen days following the date of (1) the certification of the
88 complaint, or (2) the decision made pursuant to subsection (e) of
89 section 46a-83 to hear the complaint, as applicable. In lieu of
90 appointing a judge trial referee to conduct a settlement conference, the
91 executive director may appoint an individual authorized by subsection
92 (e) of this section to conduct settlement negotiations. If the executive
93 director fails to appoint a judge trial referee to preside at a settlement
94 conference or an individual authorized by subsection (e) of this
95 subsection to conduct settlement negotiations, the chief human rights
96 referee, as provided in subsection (b) of this section, shall appoint a
97 human rights referee to hear the complaint, or a human rights referee
98 or an individual authorized by subsection (e) of this section to conduct
99 a settlement conference.

100 Sec. 3. Section 46a-55 of the 2016 supplement to the general statutes
101 is amended by adding subsections (c) and (d) as follows (*Effective*
102 *October 1, 2016*):

103 (NEW) (c) The executive director, through the supervising attorney,
104 may assign a commission legal counsel to represent the interests of the
105 state in any suit or other proceeding in which civil or human rights are
106 at issue. Commission legal counsel may intervene as a matter of right
107 in any such suit or proceeding without permission of the parties, the
108 presiding officer or the court.

109 (NEW) (d) The executive director, through the supervising attorney,
110 may, within available appropriations, assign a commission legal
111 counsel to bring a civil action, in accordance with this subsection, in
112 lieu of an administrative hearing pursuant to section 46a-83 or 46a-84,
113 as amended by this act, when the executive director determines that a
114 civil action is in the public interest. The commission legal counsel shall
115 bring a civil action in the Superior Court not later than ninety days
116 following the date the commission legal counsel notifies the parties of
117 the executive director's determination. Such civil action may be served
118 by certified mail and is not subject to the provisions of section 46a-100,
119 46a-101 or 46a-102. The jurisdiction of the Superior Court in an action

brought under this subsection shall be limited to such claims, counterclaims, defenses or the like that could be presented at an administrative hearing before the commission, had the complaint remained with the commission for disposition. A complainant may intervene as a matter of right without permission of the court or the parties. The civil action shall be tried to the court without a jury. If the commission legal counsel determines that the interests of the state will not be adversely affected, the complainant or attorney for the complainant shall present all or part of the case in support of the complaint. The court may grant any relief available under section 46a-104. Where the Superior Court finds that a respondent has committed a discriminatory practice, the court shall grant the commission its fees and costs and award the commission a civil penalty, not exceeding ten thousand dollars, which shall be payable to the commission and used by the commission to advance the public interest in eliminating discrimination.

Sec. 4. Section 46a-68c of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

In addition to the provisions of section 4a-60, each contractor with fifty or more employees awarded a public works contract, municipal public works contract or contract for a quasi-public agency project in excess of fifty thousand dollars in any fiscal year, but not subject to the provisions of section 46a-68d, shall develop and file with the Commission on Human Rights and Opportunities an affirmative action plan which shall comply with regulations adopted by the commission. Failure to develop an approved affirmative action plan pursuant to this section shall act as a bar to bidding on or the award of future contracts until such requirement has been met. The executive director or the executive director's designee shall review and formally approve, conditionally approve or disapprove the content of the affirmative action plan not later than ninety days following the date of the submission of the plan to the commission. If the executive director

153 or the executive director's designee fails to approve, conditionally
 154 approve or disapprove a plan within such ninety-day period, the plan
 155 shall be deemed to be approved. When the [commission] executive
 156 director or the executive director's designee approves an affirmative
 157 action plan pursuant to this section, [it] the executive director or the
 158 executive director's designee shall issue a certificate of compliance to
 159 the contractor. [This] Such certificate shall be prima facie proof of the
 160 contractor's eligibility to bid or be awarded contracts for a period of
 161 two years from the date of the certificate. Such certificate shall not
 162 excuse the contractor from monitoring by the commission or from the
 163 reporting and record-keeping requirements of sections 46a-68e and
 164 46a-68f. The [commission] executive director or the executive director's
 165 designee may revoke the certificate of a contractor if the contractor
 166 does not implement its affirmative action plan in compliance with this
 167 section and sections 4a-60, 4a-60g, 4a-62, 46a-56, 46a-68b, 46a-68d, and
 168 46a-68e to 46a-68k, inclusive.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2016	46a-84(b)
Sec. 2	October 1, 2016	46a-84
Sec. 3	October 1, 2016	46a-55
Sec. 4	October 1, 2016	46a-68c

JUD *Joint Favorable Subst.*